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COMMISSION ON HUMAN RIGHTS

Forty-seventh session

SUMMARY RECORD OF THE PUBLIC PART* OF THE 42nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 26 February 1991, at 3 p.m.

Chairman: Mr. VASILENKO (Ukrainian Soviet
Socialist Republic)

later: Mr. BERNALES BALLESTEROS (Peru)
Mr. AMOO-GOTTFRIED (Ghana)

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* The summary record of the closed part of the meeting appears as document E/CN.4/1991/SR.42/Add.1.

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READEX FICHE

The meeting was called to order at 3.25 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(b) SITUATION OF HUMAN RIGHTS IN OCCUPIED KUWAIT (agenda item 12) (continued)

(E/CN.4/1991/3, 4, 27-32, 33 and Add.1, 34, 36, 37, 69, 70, 74 and 77; E/CN.4/1991/NGO/5, 27, 29-31, 34 and 35; S/21907; A/45/567, 578, 607, 630, 664 and 697; E/CN.4/1990/24-26, and 28 and Add.1)

1. Mr. DOBREV (Observer for Bulgaria), speaking in exercise of the right of reply, said that, the previous day, the representative of Yugoslavia had raised the question of the so-called "Macedonian minority" in Bulgaria and had claimed to be the defender of its rights. He categorically rejected that statement because it was well known that there was no historical, legal or other justification for the presence of such a minority in Bulgaria. No one in Bulgaria would countenance such an attempt to falsify the country's history or to appropriate its national and cultural heritage.

2. His delegation felt duty bound to reply to the statement by the representative of a country which had so many problems with its own minorities that it was trying to divert attention to the neighbouring countries. His Government firmly believed in fostering a relationship of trust and solidarity with its neighbours but, to that end, the co-operation of the other party was needed.

3. Mr. MARKIDES (Cyprus), speaking in exercise of the right of reply, said that the observer for Turkey in his reply to the observer for Greece had again distorted reality, ignoring the fact that, in 1974, Turkey had invaded Cyprus and that 40 per cent of the country's territory was still under Turkish military occupation. He had also ignored the fact that Turkey had expelled about 80 per cent of the population from the occupied territory, that it had systematically transferred settlers to the ancestral homes and properties of approximately 200,000 Greek-Cypriot refugees, in order to change illegally and artifically the demographic composition of Cyprus and further its long-stated aim of partition.

4. Forty-eight substantial and mandatory Security Council resolutions adopted since the Turkish invasion had remained unimplemented by Turkey, thereby denying Cyprus justice. He reminded him further that it was the Turkish army that had imposed the partition of Cyprus and was continuing to maintain barriers at a time when other barriers in Europe had fallen. He hoped that Turkey would finally understand that it could not simply ignore the Security Council resolutions on Cyprus.

5. Mr. ELARABY (Observer for Egypt), speaking in exercise of the right of reply, said that the representative of Iraq had stated that the Government of Egypt was responsible for the failure to achieve a peaceful solution in the Gulf. In a previous statement, however, his own delegation had stressed the need to look to the future and to ensure respect for the principles of international law and for the implementation of United Nations resolutions.

In that statement, it had also reviewed the various attempts made by the Government of Egypt to secure peace. Egypt could hardly be held responsible for the failure of the peace efforts of the non-aligned countries, when it had again and again called upon the Iraqi régime to withdraw from Kuwait.

6. Right up to the Security Council deadline, his Government had tried to avoid a destructive war in the region but, despite its efforts and those of other countries, the Iraqi régime had refused to abide by the Security Council resolutions.

7. At the current crucial stage, when the fate of the entire Iraqi people was at stake and the region was enduring great suffering, everyone should look to the future and plan for co-operation under conditions that would ensure peace and security in full respect for sovereignty and human rights.

8. Mr. GALINDO POHL (Special Representative of the Commission), introducing the report on the human rights situation in the Islamic Republic of Iran pursuant to Commission resolution 1990/79 (E/CN.4/1991/35), said that he hoped it provided the background information which would enable the Commission to obtain an objective picture of the human rights situation in Iran. The 1990 report had dealt with his first visit and the current one with his second visit. During both visits, he had been able to compile information which was not obtainable outside the country. During the second visit, he had had interviews with 18 political prisoners in private, on which he had reported in detail.

9. During his renewed mandate, the Government of Iran had dealt with many outstanding issues and in particular, had replied to the many allegations, some of which had been pending since 1985. Some of the replies were incomplete but others provided information which enabled a comparison to be made with the allegations. In his view, the Government of Iran was complying with the Commission's repeated request to co-operate fully with him.

10. The final report highlighted some other positive measures taken by the Government of Iran, such as the favourable outcome of several cases submitted by him on humanitarian grounds, the clemency granted to many prisoners convicted under ordinary law and political prisoners, the liberation of seven signatories of the so-called "Letter by the 90", whom he regarded as political prisoners, and the promulgation of the decree of 31 December 1990, which made the presence of a defence lawyer mandatory at all the stages of a criminal trial.

11. The Government had allowed the International Committee of the Red Cross (ICRC) to visit prisons without restriction. The ICRC had submitted a draft agreement on the subject to the Government which, to date, had still been accepted in principle only.

12. The official Iranian radio regularly reported the latest executions, most of which were for drug trafficking and the remainder for ordinary and political crimes. He had repeatedly represented to the Iranian Government that it should substantially reduce the number of executions and amend the penal legislation to make the death penalty an exceptional punishment to be imposed only for very serious crimes, as stipulated under international law.

13. The complaints he had received included repeated allegations of ill-treatment and torture, the absence of defence lawyers, the failure to state the charges immediately upon arrest, and irregularity in the due process of the law. Iranian radio stations announced the punishments of amputation and stoning, both of which were prohibited by the competent international organs because they constituted torture. There were 14 persons still in prison because they had criticized the Government's economic policy. He had been told of alleged cases of the denial of freedom of thought and expression during his first visit and of even more during his second visit. Since the allegations came from persons who had direct experience of the violations, he considered them plausible.

14. For the first time, he had received information about the persecution of evangelical Christian groups. The pastor of one such group had recently been hanged and the members had complained to international organizations and made representation to the Government itself. He had also received abundant information supported by official documents, from different cities and provinces, that while the members of the Baha'i faith were not being systematically persecuted, they were subjected to selective restrictions and discriminated against inter alia in respect of admission to universities and recognition of the right of inheritance. They never knew what action the authorities were going to take because decisions concerning them were always arbitrary. Regarding the discrimination against the Baha'is, an appeal should be made to the Government to apply the law equally to all its nationals.

15. During his second visit, persons who had no political or judicial problems and who were not involved in any political activities agreed to talk to him after taking considerable precautions to ensure confidentiality. The lengths to which they went were indicative of the climate of fear and uncertainty surrounding any persons or activities which might be or be construed as anti-Government.

16. The Iranian Government had sent him a note asking him to deal with the situation of the persons displaced as a result of indiscriminate bombing during the war with Iraq and the millions of refugees currently on Iranian territory. He felt that the problem did not fall within his mandate but would welcome the Commission's guidance on the matter.

17. In his report, he had repeated the recommendations made in previous reports to ensure that the issues they covered would be borne in mind. His recommendations were detailed and provided more specific information to assist the Commission in taking a decision on them.

18. The report also raised the question, to which the Iranian Government attached the greatest importance during his renewed mandate, namely the continuation or termination of international supervision. The Government's view was that the mandate should be terminated, on the political grounds that some countries which flagrantly violated human rights had never been subjected to supervision and on the legal grounds that there might be isolated violations in Iran but not systematic ones.

19. The Government had recently referred to the matter of the criteria on which the Special Rapporteur had based his conclusion that the supervision should continue and had addressed a note to him on the subject which was included in the report together with his comments. So far, discussion of the

subject had been centred on views expressed in unofficial conversations with representatives of Iran abroad. The views they advanced were included in the chapter on conclusions. However, all the criteria should be applied together and according to the relevant decisions of the Commission, and where appropriate of the General Assembly. The criteria he had applied had been given in his successive reports to the Commission and to the General Assembly.

20. Mr. WAKO (Special Rapporteur on summary or arbitrary executions), introducing his report (E/CN.4/1991/36), said that, during 1990, the amount of information received relating to extra-legal, summary or arbitrary executions had increased dramatically. He was encouraged that the importance of his mandate was becoming better known, and thanked all who had contributed thereto. His report highlighted four issues: death threats; deaths in custody; executions following inadequate trial or judicial procedures; and extra-legal executions in situations of internal conflict.

21. Many of those who sought to draw international attention to human rights violations were subjected to death threats, which in a number of cases were carried out. Effective response to information in cases where a summary or arbitrary execution was threatened or imminent was one of the most important aspects of his mandate, since timely response by a Government to whom an urgent appeal was addressed could be vital. Governments had the primary responsibility to protect the right to life; as stated in his report, he was grateful to those Governments which, on receiving an urgent appeal, had offered extra security to those threatened and had carried out investigations leading to the capture of those responsible.

22. He strongly appealed to Governments which had not done so to pay particular attention to such urgent appeals, take immediate appropriate action and keep him informed. He confidently expected that he could continue to rely upon the legal and moral integrity of Governments to work towards the elimination of death threats and other forms of reprisal against those fighting for the cause of human rights.

23. He had consistently stressed the importance of the principle, reflected in Commission resolution 1990/76, that no one wishing to impart pertinent information to the United Nations should feel inhibited from doing so by fear of intimidation or reprisal. In that connection, paragraphs 21-70 of the annex to document E/CN.4/1991/24 gave details of allegations of intimidation and reprisal received and processed by special rapporteurs and working groups of the Commission. Where the allegations received so warranted, he also intended to make use of the Basic Principles on the Role of Lawyers, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, as an additional source of international human rights law to be upheld by Governments.

24. Reports on deaths in custody, both in detention without charge or trial and during imprisonment, had risen alarmingly. Harsh prison conditions, including torture, and a lack of food, hygiene or medical attention, were often the causes. As in previous years, he had addressed those issues in his communications with Governments, as had the Special Rapporteur on torture. Article 10 of the International Covenant on Civil and Political Rights required that all persons deprived of their liberty should be treated with humanity and with respect for the inherent dignity of the human person; where a State had failed to fulfil its obligations in that regard, it could and

would be held accountable to the international community. Accordingly, he would continue, in such cases, to ask the State to carry out an independent and impartial inquiry, to inform him of the postmortem examination result and to punish appropriately anyone found responsible for the death.

25. During the past year, he had continued to receive a significant amount of information relating to executions following inadequate trial or judicial procedures; and he had reviewed the procedural and substantive safeguards which the State guaranteed to all persons brought before its judicial system on criminal charges. The principles in that regard were set forth in article 14 of the International Covenant on Civil and Political Rights. Even where all those principles had not been rendered law by means of a convention, they constituted customary law, so fundamental was their philosophy to all legal and social systems. When such principles were not respected, therefore, in situations falling within the scope of his mandate, he was compelled to request the Government concerned to investigate the circumstances at once and make every effort to prevent such loss of life in future. Moreover, where the number of executions in a country was particularly high or the number of capital offences numerous, the question arose whether article 6 of the Covenant had been violated; accordingly, he had not hesitated to request an explanation from the Government concerned.

26. During 1990, an extremely high number of lives had been lost through extra-legal killings in situations of internal conflict. Regrettably, in such situations he had not been able to implement his mandate effectively, if at all. Some such situations had amounted to civil war, as in Liberia and Somalia; and international bodies had then been unable to act effectively, loss of life had been high, and devastation widespread. Internal conflict also included disturbances, tensions and public emergencies; during 1990, the violent suppression of demonstrations had occasioned an unusually high and unnecessary loss of life. Although, in a few cases, the force used by the police or security forces could be deemed reasonable and had been used as a last resort, in many others it had been grossly disproportionate.

27. On legal and practical grounds, the Government was the Special Rapporteur's only interlocutor in such cases. Even where, in certain situations, groups opposing the Government might be allegedly responsible for the loss of life, he could address his concerns to the State alone. Where the degree of upheaval prevented Governments from acting effectively, his appeals to such Governments to conform to international human rights standards achieved but limited results, at best. Moreover, the instruments and standards which he invoked were not always tailored to such situations.

28. Although States did not always fulfil their responsibilities perfectly in view of the prevalent factors, in a number of instances Governments were earnestly striving to prevent killings, carry out proper investigations and conduct legal proceedings against those believed to be responsible for extra-legal executions. The international community, and United Nations machinery in particular, should be deployed to assist Governments in their efforts to conform to international standards; and States having the appropriate resources and experience should co-operate in internationally sponsored undertakings with a view to minimizing the loss of life. He again strongly urged the Commission to consider ways of dealing with such situations; a comprehensive study by the Commission or Sub-Commission might well be an appropriate starting-point.

29. He had, in the past, stressed the importance of co-ordination and co-operation between all the elements of the United Nations human rights machinery. During the year under review, he had attended hearings held by the Ad Hoc Working Group of Experts on southern Africa, and hoped that such co-operation could be extended to other human rights bodies. Consultations were expected to take place during the forthcoming year with a view to its enhancement.

30. He expressed his appreciation to those Governments which had responded to his appeals. After the deadline for the inclusion of responses in the 1990 report, responses had been received from the Governments of Brazil, Colombia, El Salvador, Honduras, the Islamic Republic of Iran, Mauritania, Mexico, Morocco, Nigeria, Rwanda, Sudan, Switzerland, Tunisia and Yugoslavia; their contents would appear in his next report. He also thanked the Governments of Brazil, Nigeria, Peru, Sri Lanka, Tunisia and Zaire for having met him, during the past year, to explain their efforts to improve the human rights situation in their countries. He particularly thanked the Governments of Peru, Sri Lanka and Zaire for inviting him to examine situations on the spot, and looked forward to reporting on those visits to the Commission at its forty-eighth session.

31. As for the conclusions and recommendations contained in his report, the volume of information received had risen commensurately with growing international awareness of his mandate - a point to be borne in mind when considering the urgent need to strengthen the secretariat services at his disposal. He thanked the Under-Secretary-General for Human Rights and the Secretariat for the support given to him despite their limited resources.

32. Mr. MOUSSALI (Office of the United Nations High Commissioner for Refugees) said that, if the basic belief underlying United Nations proclamations on human rights - that freedom, justice and peace were based on the rights and freedoms of the individual - were applied to the refugee problem, it could be seen that the problem was one that basically concerned the individual. Therefore, while it was right and necessary to emphasize the effects of massive refugee flows on international peace and security, and the obligation of States to co-operate in preventing them, it was equally important to recognize the untold suffering of millions of individuals.

33. During the past seven decades of international co-operation, it had been broadly recognized that there were two basic elements of the problem, namely, the compulsion to leave the country of nationality or to stay abroad and, secondly, the individual's unwillingness or inability to avail himself of the protection of the country of his nationality.

34. From the human rights standpoint, the element of compulsion was most significant. Compulsion violated the right, recognized in the International Covenant on Civil and Political Rights, of an individual to leave and return to his country. The responsibility of countries of origin in that regard should be examined more closely by the world community, which had hitherto focused on the aspect of asylum, not exile, when identifying State responsibilities. The Commission might well provide the impetus for such an examination, which could be of major significance in seeking solutions to refugee problems and balancing the burden of responsibility between

originating and receiving countries. It was fundamental, however, that the basic safeguards for refugees, especially that prohibiting refoulement, should remain untouched.

35. Those matters, which were some of the key human rights aspects of the refugee problem, would be deliberated by a working group of the UNHCR Executive Committee, which would be looking at existing law and doctrine, focusing on human rights, particularly in regard to the country of origin, with a view to an improved approach at both the international and national levels. That initiative was aimed at widening international thinking and debate on the handling of refugee problems.

36. As part of the forward-looking strategy, which recognized inter alia the value of an interdisciplinary and inter-organization approach, UNHCR continued to participate in work to develop early warning systems, to whose functioning it remained willing to contribute.

37. With regard to human rights and mass exoduses, the Commission would have before it a draft resolution as in previous years. Work on that subject had been pursued since 1980, inter alia by the Group of Governmental Experts on International Co-operation to Avert New Flows of Refugees, the Office for Research and Collection of Information and, most recently, the Joint Inspection Unit, whose report on the co-ordination of activities relating to early warning of possible refugee flows had been submitted to the General Assembly at its forty-fifth session; UNHCR fully endorsed the recommendation, in the JIU report, on the creation of a temporary inter-agency working group and a more permanent consultative mechanism to deal with specific cases when early warning information was, or should be, available.

38. UNHCR welcomed the addition to the Commission's agenda of an item on the rights of the child. The Convention on the Rights of the Child was one of the major international human rights treaties. Half of the world's refugee population, currently estimated at 15 million, were children. Of particular importance to UNHCR was the provision, in article 22, that the Convention applied to refugee children and to children seeking refugee status; it would collaborate closely with the Committee on the Rights of the Child by providing expert advice and reporting on the Convention's implementation. It also believed that there was scope, in the Commission, to look at the human rights implications of harsh detention of refugees and asylum seekers.

39. The High Commissioner fully supported the General Assembly's decision to convene a World Conference on Human Rights in 1993, and had already expressed his concern that refugee issues should find an appropriately central place on the agenda. UNHCR welcomed the focus on refugee issues in a number of statements by Commission members at the current session; the Commission's increased attention to the fate of refugees and asylum seekers clearly showed that there was scope for UNHCR and the Commission to work together. He also reiterated UNHCR's appreciation of the important work carried out by non-governmental organizations in the field of human rights, not least in the protection of refugees; without their activities, the setting and supervision of human rights standards would be much more difficult. It was to be hoped that those organizations would receive ever-increasing public support.

40. Mr. HJELDE (Observer for Norway) said that the Commission's deliberations were taking place against the tragic backdrop of a war in the Gulf - a war precipitated by acts of a State with a notoriously dismal human rights record. The Iraqi régime's gross and consistent human rights violations had been clearly documented. Its callous use of chemical weapons against its own Kurdish population would never be forgotten, and its naked aggression against Kuwait had added more atrocities to the list of Iraqi crimes against humanity.

41. As stated by the Norwegian Minister for Foreign Affairs when addressing the Commission at its 17th meeting, the Norwegian Government condemned those acts of violence. The Minister had also made a number of observations regarding the human rights situation in the Baltic States; in the Norwegian Government's view, the tragic events in Vilnius and Riga in January 1991 represented human rights violations on which the Commission should express itself.

42. Although the human rights situation in the Islamic Republic of Iran remained a cause for concern, his delegation welcomed the Iranian Government's apparent readiness to continue the dialogue with the outside world; it urged that Government to heed the international community's concern, reflected in the Special Representative's latest report (E/CN.4/1991/35).

43. With regard to the situation in Myanmar, his delegation noted with concern that the military Government not only continued to disregard the May 1990 election results but was increasingly applying martial law restrictions; it appealed to that Government to release authorized opposition party leaders and members, students and monks, and to respect the Myanmar people's right to choose its own form of government.

44. In China, internationally recognized human rights, including freedom of expression, were still restricted. The Nordic country ambassadors' tour of Tibet in November 1990 had signalled a welcome willingness to proceed with dialogue; his delegation encouraged the Chinese Government to take further steps in accordance with international human rights standards.

45. In Sri Lanka, the human rights situation in the north and east remained precarious, and the recent upsurge in the armed conflict was regrettable. His delegation appealed to all parties and armed groups to show restraint and again seek a negotiated settlement, and it commended the Government for having established a task force and a commission on human rights.

46. The events of the past year had shown that lasting changes in the human rights situation in South Africa could be achieved by negotiations and peaceful means. The promises of the South African Government must, however, be fulfilled in concrete terms before the violations of human rights in South Africa could be removed from the international agenda.

47. The conflicts in northern Ethiopia and southern Sudan continued to be a cause of great concern. It was deeply distressing that talks between the parties involved had not yet yielded the hoped-for results. Those conflicts, as well as the civil war in Somalia, had caused enormous human suffering. He again appealed to the parties concerned to make new attempts at finding peaceful solutions. He also urged respect for the fundamental principle of free access of humanitarian aid to the civilian victims of armed conflict.

48. He had been alarmed at the consistent pattern of human rights violations in the Sudan. Reports were being received of new arrests of persons who took issue with the Government's policy through non-violent means, including trade unionists, human rights defenders, doctors and others, many of whom had been subjected to various forms of ill-treatment.

49. Mauritania was another case in which human rights were manifestly being violated and where the situation seemed to be deteriorating, calling for increased international attention.

50. His delegation had stated time and again that it did not regard the safeguarding of fundamental human rights as interference in the internal affairs of any country. A long-standing partnership with Kenya in development co-operation had not prevented his Government from voicing its concern about the fate of Kenyan dissidents and human rights defenders. Reference had been made at a previous meeting to the case of Mr. Koigi wa Wamwere, and he again appealed for fair trials and due process of law for him and for all dissidents currently held in Kenyan jails.

51. The human rights situation in El Salvador remained deplorable. The authorities, faced with a violent insurgency, did not exercise control of the police and armed forces, both of which were heavily involved in extra-legal executions, involuntary disappearances and torture. He called on the Government and the Frente Farabundo Martí para la Liberación Nacional (FMLN) to adhere to the terms of the Agreement on human rights.

52. In the period under review, the human rights situation in Guatemala had not improved and remained a cause of grave concern. Extra-legal killings by "death squads" and disappearances had become a part of daily life. The recent transfer of power from one civilian President to another - the first in Guatemala's modern history - had raised hopes for a better future. He had noted with keen interest the new Government's dedication to improving the human rights situation and to asserting greater control over the military. In the interim, however, the situation in Guatemala should certainly have remained under item 12 of the Commission's agenda.

53. With regard to Cuba, he was compelled to state that there had been no major improvement in the human rights situation there since the previous year. He had been deeply disturbed to learn that human rights activists had been imprisoned.

54. While the human rights situation in several countries of South America had improved in recent years, there were still causes for concern, particularly in Peru. Reports from a variety of sources indicated a great number of extra-legal executions, disappearances, torture, indiscriminate arrests and lack of proper judicial procedures. While the brutal practices of the Peruvian insurgents must bear a heavy responsibility in that regard, it was also imperative for the Government to address itself to the task of dramatically increasing respect for human rights in the country.

55. He emphasized the importance of world attention and support for persons who were subjected to illegal and immoral abuses of power by their own authorities. That remained a first priority for all human rights defenders.

56. Mr. SIBAL (India), speaking in exercise of the right of reply, said that the representative of Canada had expressed concern about alleged human rights violations in Jammu and Kashmir, in the Punjab and in Assam. Particular reference had been made to the situation prevailing in Jammu and Kashmir in the context of the role of the Indian security forces in the maintenance of law and order and in controlling the flow of weapons to insurgents.

57. The Indian security forces had been advised to exercise the utmost restraint in dealing with the problem of insurgency instigated, aided and abetted from beyond the line of control in Jammu and Kashmir. Civilian casualties were substantially the result of trained militants deliberately operating in crowded areas. However, he could assure the international community that the Indian security forces would continue to act with restraint, and that, whenever it was found that the force used had been disproportionate to the exigencies of the situation, the matter would be looked into and action initiated against those responsible.

The public meeting was suspended at 4.50 p.m. and resumed at 9.00 p.m.

58. Mr. Bernales Ballesteros (Peru) took the Chair.

59. Mr. KOLOSSOV (Union of Soviet Socialist Republics) said that his delegation had taken note of the concern expressed by the representatives of a number of countries about recent tragic events in the Soviet Republics of Lithuania and Latvia, which had included acts of violence and other violations of human rights. He wished to assure the Commission that a thorough investigation of the incidents had already begun in accordance with Soviet law. The Government would inform the Chairman of the Commission of the results of that investigation as soon as possible.

60. Given the existing human rights problems in Lithuania and Latvia, his delegation had been pleased to hear the appeals made during the session to the authorities concerned to guarantee the full enjoyment of human rights and fundamental freedoms without discrimination of any kind. The President, the Supreme Soviet and the Government of the USSR would do everything in their power to fulfil their international obligations, including the obligation to protect human rights on Soviet territory.

61. The CHAIRMAN said that he had a statement to make on behalf of the Commission. The Commission had taken note of the positive developments in the Union of Soviet Socialist Republics and the increase in respect for human rights and fundamental freedoms there. The Commission wished, however, to express its serious concern about the recent and tragic acts of violence, which had led to violations of human rights, including the right to life, the right to freedom of information and the right to take part in the management of public affairs. In that connection, it had in mind the provisions of the Code of Conduct for Law Enforcement Officials and the Basic Principles for the Use of Force and Firearms by Law Enforcement Officials, adopted by the United Nations General Assembly in 1979 and 1990, respectively.

62. The Commission noted with satisfaction the decision by the Government of the USSR to investigate the incidents and bring those responsible to justice, as well as its willingness to inform the Chairman of the Commission of the results of its investigations. The Commission took note of the existing human

rights problems in Lithuania, and urged the relevant authorities to ensure that human rights and fundamental freedoms were enjoyed fully and without discrimination in those republics.

63. Mr. ALFARSY (Observer for Oman) said that a State's basic rights of nationhood were guaranteed by international instruments and also by all religions, including Islam. Nevertheless, Iraqi forces had invaded the neighbouring State of Kuwait in August 1990, and Iraq had forfeited all claims to good neighbourliness by that act. Kuwait was a sovereign and independent State, which managed its own domestic and foreign affairs. Its links with the rest of the world had always been based on respect and co-operation. Kuwait was a founder member of the Gulf Co-operation Council and an active participant in the Arab League, the United Nations, the Non-Aligned Movement and many other regional and international bodies. During its current debate, the Commission had learned of the deterioration in the human rights situation in Kuwait, which the General Assembly had also noted in resolution 45/170.

64. It had been announced that day that President Saddam Hussein of Iraq had declared that he would withdraw his troops from Kuwait and that he no longer considered Kuwait as part of Iraq. If that was really true, then the whole world would rejoice, but many lives would have been saved if the crisis had been resolved earlier. He hoped that all Kuwaiti citizens would henceforth be able to enjoy the rights accorded to them under their religion and the law.

65. Mr. Amoo-Gottfried (Ghana), took the Chair.

66. Mr. FATHI MASRI (Observer for the Syrian Arab Republic) said that southern Lebanon had been under Israeli occupation for many years, despite the condemnation of the international community. The United Nations had prepared many reports on the brutal practices of the occupying forces. As the Security Council had noted, Israeli operations on Lebanese territory belied Israel's claim that it had no ambitions to expand further into Lebanese territory. Israel was attempting to cut southern Lebanon off from the rest of the country militarily, economically and socially, by an occupation which was no longer intended to be temporary.

67. Israel had defied all the resolutions adopted by the Commission and continued its violations of human rights in Lebanon. For instance, a network of military roads had been set up, which prevented civilians from moving about freely. The Israeli forces had confiscated agricultural land to build barracks or airfields and walled off land to prevent its owners reaching it. Israel continued to support the South Lebanon Army (SLA) with finance, weapons and training. It had also installed its own civilian administration, to which civilians were expected to turn for administrative matters such as the issue of travel passes.

68. Israel continued to detain Lebanese citizens and try them before Israeli courts and under Israeli law. Imprisonment, kidnappings and torture were still common. The International Committee of the Red Cross (ICRC) and other humanitarian organizations were not allowed to visit detainees or inspect the conditions under which they were held.

69. In April 1990, Israeli forces and the SLA had destroyed a village school attended by 150 students. The Israeli forces continued to bomb Lebanese villages and towns and the camps occupied by Palestinian refugees. Many

women, children and old people had been killed or maimed in those attacks. Israel continued to exile Palestinians to southern Lebanon and completely ignored international treaties and international humanitarian law, as well as resolutions of the General Assembly and the Commission on Human Rights. The action of the Israeli authorities had hampered the Lebanese Government's implementation of its decision to deploy its own army in the south of the country.

70. The Commission had a responsibility to put an end to human rights violations by Israel in southern Lebanon and to condemn Israel's actions, which violated every principle of humanitarian law and all the standards of human behaviour. The Commission should call upon Israel to implement the relevant Security Council resolutions, withdraw its forces from southern Lebanon and abide by the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War.

71. His Government had opposed Iraq's invasion of Kuwait from the outset. President Assad had called upon Saddam Hussein to withdraw his forces from Kuwait and his Government had done its best to explain the real facts to the Arab world and to prevent the destruction of the Iraqi nation and the harm which a Gulf conflict would bring to the Palestinian cause. Syria had done its best to find an Arab solution to the crisis and had convened many meetings of Arab States to discuss it. However, all the efforts of the Arab countries had been rejected by Iraq, and a destructive war had been the result. There had been many human tragedies in both Kuwait and Iraq, and both Arabs and non-Arabs had been subjected to acts of violence. Syria mourned for the victims of those violations.

72. Syria had a long history of amicable relations with Cyprus, and his Government supported the efforts of the Secretary-General to seek a peaceful solution in accordance with General Assembly and Security Council resolutions. Such a solution must respect the sovereignty, territorial integrity and non-aligned status of both communities, if human rights were to be respected.

73. Monsignor MULLOR (Observer for the Holy See) said he welcomed the statement made by the representative of the USSR on the situation in the Baltic Republics. On 12 January 1991, Pope John Paul II, in an address to diplomats accredited to the Holy See, had talked of the prospects for peace in a Europe at last reconciled with itself. Among those present on the occasion had been the newly-accredited ambassadors of Poland, Hungary and the Czech and Slovak Federal Republic, as well as a representative of the USSR, which had declared its intention of establishing official relations with the Holy See. Romania and Bulgaria were soon to appoint ambassadors also.

74. The profound changes which had taken place in Europe since the end of the cold war would surely encourage greater respect for human rights. As the Pope had observed in his address to the ambassadors, every country in Europe currently had the opportunity to declare its commitment to democracy, human rights and fundamental freedoms, economic freedom and social justice and security for all nations.

75. Only days after that address, however, the Gulf War and the bloody confrontations in the Baltic Republics had brought further cause for concern to everyone who cared about human rights. The Pope had expressed the hope

that the war in the Gulf, which had been unavoidable, would be over as soon as possible - and, indeed, from the day's announcements it seemed that it soon might be. Nevertheless, an opportunity had been missed to allow justice to triumph over the force of arms - an achievement which posterity would doubtless have prized more highly than any triumphs in battle.

76. The situation in the Baltic Republics was a chance for all the parties concerned to prove their determination to use human rights as a basis for a more just and more fraternal future. More than 40 million copies of the Universal Declaration of Human Rights had been distributed in the republics during 1990. Those republics owed their current situation to secret treaties, signed without any democratic consultation with the people, at a dark and tragic moment for freedom in Europe and throughout the world. The illegal nature of those agreements was, in itself, a justification for the independence of the Baltic Republics.

77. The Pope had stressed the importance of helping the Baltic Republics to remain loyal to their traditions and heritage, and to seek new solutions through dialogue and negotation which would open doors and sweep away prejudice. The statement just made by the Chairman surely embodied those principles.

78. His delegation had listened with interest to the views expressed on the subject by various speakers, including the Minister for Foreign Affairs of Luxembourg, speaking on behalf of the European Community, and the representatives of Canada and the Nordic countries. The problem of the Baltic Republics was, in fact, both a European and a world problem, which could be solved by the implementation of the Universal Declaration of Human Rights and its subsidiary instruments, and also by the Charter of Paris, adopted in December 1990 by all the countries participating in the Conference on Security and Co-operation in Europe.

79. Any deviation from that path would mark a setback for the new spirit of human rights which had developed in Eastern Europe the previous year. On the other hand, every effort at conciliation and dialogue, every gesture of peace, would be another brick in the edifice of the "common European house". In that spirit, his delegation wished to reiterate its sincere hope that all the citizens of the Baltic Republics would soon be able to enjoy their individual and collective rights.

80. Mr. BETZIOS (Greek Orthodox Archdiocese of North and South America) said he wished to draw the Commission's attention to the continued violations of human rights in Albania and said that it was clear from the Report of the Secretary-General (E/CN.2/1991/29) and from the replies annexed thereto that the Government of Albania had failed to satisfy the requests addressed to it in Commission resolution 1990/49, to provide information and respond to specific allegations.

81. Despite the trend toward democratization, pluralism and respect for human rights in other countries of Central and Eastern Europe, there were still numerous instances of human rights violations in Albania, including killings of Albanians who attempted to reach freedom in neighbouring countries, such as Greece and Italy. Quite recently, on 18 February 1991, police and special troops had surrounded the University of Tirana in response to a hunger-strike by the students.

82. Although the promises of democratic reforms by the régime were not completely unconvincing, their objective was to mislead the Albanian population. Rather than making vague pronouncements and unsupported claims, the régime should inform the Commission and the international community what concrete constitutional measures it had adopted, in accordance with the International Bill of Human Rights and other international human rights instruments, to guarantee the establishment of democracy and the rule of law. In that connection, he suggested that the Commission should consider appointing a small group of its members to observe the elections in Albania.

83. He drew particular attention to the situation of the Greek Orthodox minority in Albania, whose members were facing the extinction of their ethnic and cultural identity. His organization had drawn attention to that issue at previous sessions, and he reiterated the importance of raising the question of the restoration of the right of the Greek ethnic minority in Albania to autonomy and urged the Commission to continue to extend its protection to the oppressed people of Albania and to adopt a resolution reaffirming its previous resolution and calling upon the Albanian Government to accelerate the process of democratization.

84. Lastly, he referred to the situation of the 200,000 forcibly uprooted Greek Cypriots in Turkish-occupied Cyprus, where Turkey continued its illegal policy of importing Anatolian settlers. In addition, all but a few hundred of the more than 20,000 Greek Cypriots enclaved in the occupied areas in 1974 had been driven out by a campaign of harassment, robbery and persecution. He appealed to the Commission, the international community and the Secretary-General to do their utmost to end that drama and implement the relevant resolutions of the Security Council and other competent United Nations bodies as soon as possible.

85. Ms. WU (Women's International League for Peace and Freedom) said that armed conflicts and militarism had enormous consequences for the lives of women throughout the world. In El Salvador, women had been living under a state of civil war for 10 years and, in the absence of their sons and husbands, had had to take on the role of heads of family, as well as being directly affected by disappearances, assassinations and death threats. Women in El Salvador had great hope that the negotiations currently under way between the Salvadorian Government and FMLN would lead to an end of hostilities, and she urged that the mandate of the Special Representative be extended until the situation had improved.

86. In Guatemala, indigenous women were particularly affected by human rights violations and by the war which had produced some 100,000 widows and 300,000 orphans. Unprotected by their husbands, Guatemalan women were the victims of rape and other forms of sexual abuse, and she requested that the Working Group on Enforced and Involuntary Disappearances should visit Guatemala to verify whether or not the Guatemalan Government had organized a national commission to investigate enforced disappearances.

87. In the Philippines, a million individuals had lost or abandoned their homes between 1986 and 1989 in the wake of the intensive military campaigns associated with counter-insurgency operations. As the countryside became increasing militarized, women were particularly vulnerable to human rights abuses and the exactions committed against them had been documented by human rights fact-finding missions.

88. Her organization's Philippine group was working for the reversal of the total war policy and had called for a nation-wide cease-fire and the commencement of negotiations between the Government and the various armed groups in the country. She welcomed the recommendations made in respect of the Philippines by the Working Group on Enforced and Involuntary Disappearances and by the Special Rapporteur on torture and urged the Commission to continue to monitor the human rights situation there.

89. There had also been disturbing reports about the treatment of the more than 1.2 million persons displaced as a result of the civil conflict in Sri Lanka, and, as usual, the sexual abuse of women was one of the most terrible consequences of the war and civil conflict. Rajini Thiranagama, the author of a book condemning human rights violations committed by the armed forces of the Sri Lankan and Indian Governments and by the Liberation Tigers of Tamil Eelam had been murdered, as had Gladys Jayawardena, chairperson of the State Pharmaceuticals Corporation, for having defied a JVP-People's Liberation Front edict prohibiting the import of essential drugs from India.

90. There were well-documented cases of the abuse of women taken into custody, and persons who had filed allegations concerning violations of their fundamental rights had been intimidated. In spite of those circumstances, on 19 February 1991, the Mothers' Front of Sri Lanka had held its first national meeting, attended by more than 10,000 women who had reaffirmed their commitment to peace, negotiation and unity. She appealed to the Commission to urge the Sri Lankan Government to facilitate the visit to Sri Lanka, in 1991, of the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on Executions, and to guarantee protection for all who spoke out against human rights violations.

91. She concluded by observing that, in all the cases mentioned, there were non-violent alternatives to war, beginning with the cessation of hostilities and gross violations of human rights and the initiation of negotiations to settle the conflicts peacefully and open the way for the realization of the right to development.

92. Mr. PEREZ ESQUIVEL (International League for the Rights and the Liberation of Peoples) said that it was impossible to ignore the serious human rights violations connected with the war in the Persian Gulf and their serious consequences for mankind as a whole, and appealed for an immediate cease-fire and a just solution.

93. In Latin America, where most countries had lived under military régimes for many decades, with a toll of thousands of dead, disappeared and tortured, the 1980s had heralded the arrival of democracy, which, despite its essentially formal nature, had raised hopes of ending the serious human rights violations and restoring freedom, democratic institutions and the proper working of the judiciary.

94. It was becoming clear, however, that the crimes against humanity would not be punished at all, although no true democracy could be built on that basis of impunity. Impunity was showing itself to be a structural process, whose existence demonstrated that the political changes of recent years had failed to eradicate practices that constituted serious violations of human

rights. Most of the victims of such violations were from the poorer classes, and it was clear that the machinery of impunity was matched by the social and economic policies implemented in the shadow of State terrorism and, to varying extents, pursued by subsequent constitutional Governments.

95. The accumulation of an unpayable external debt had intensified the poverty of the vast majority of the population and the gradual destruction of the traditional structure of society, with its sequels of illness, illiteracy and malnutrition which left basic human need far from satisfied. The responsibility of States and international agencies such as the World Bank and the International Monetary Fund in that respect should not be ignored by international forums and non-governmental organizations.

96. As most of the States Members of the United Nations had signed and ratified the major international human rights instruments, they were responsible for complying with the commitments they had entered into to protect the life, physical integrity and fundamental freedoms of individuals and peoples, to administer justice and punish those guilty of crimes against humanity. While a Government was entitled to pardon certain crimes, no derogation was possible from fundamental human rights, such as those proclaimed in the above instruments, which were all the more important when the right to justice itself was denied through the practice of impunity.

97. Constitutionally elected Governments had repeatedly violated those principles. In Argentina, after the trial and conviction of former members of the military dictatorship, the then Government had adopted a number of laws as a result of which the cases against virtually all those guilty of serious human rights violations had been dropped. That process had been completed by the current Government which had consecrated the practice of granting total immunity from prosecution in the case of crimes against humanity. The attitude adopted by the Argentine Government left justice defenceless and undermined the credibility of State institutions.

98. The situation was similar in most of the countries of Latin America, including Guatemala, where repression of the indigenous communities was systematic, Colombia, Honduras and El Salvador.

99. In Peru, despite the promises made by President Fujimori to respect human rights and punish those guilty of human rights violations, the number of disappeared detainees was the highest in the world and the Government of Peru had so far failed to comply with the recommendations made by Mr. Kooijmans, Special Rapporteur on torture, to put an end to extra-legal executions. The Peruvian armed forces were beyond the control of the Government, and despite the serious problem it had to face on account of the guerrilla war and the worsening of the social situation, the Government had no right to commit crimes against the people and to deprive them of their right to justice.

100. Lastly, he drew attention to a vital principle of international law, the continuity of the State, pursuant to which a new Government was responsible for violations of international law committed by its predecessor. His organization suggested that the Commission should study the mechanisms of impunity, how they affected democracy and their consequences for the life and fundamental freedoms of the peoples, in view of the serious danger of national and international legislation being erased at the stroke of a pen by interests that heralded no good, either for peoples or for the democracy.

101. Ms. TOM (Caritas International) said that her organization was particularly concerned by the problem of internally displaced persons, seen in the perspective of human rights based on solidarity, and recalled that, in its resolution 44/148, the General Assembly had called for the strengthening of a common sense of human solidarity. She drew attention to the desperate situation of internally displaced persons, most of whom did not come under the mandate of UNHCR and remained, at least theoretically, the responsibility of their own Governments.

102. The problem, which affected between 15 and 20 million people - frequently from religious and ethnic minorities in developing countries - was not restricted to any one area of the world and was marked by an intolerable level of suffering, in view of which the most fundamental human rights had lost their meaning. While it was a generally accepted principle of international law that internally displaced persons should remain the responsibility of their own Governments, the obligation of non-interference in the internal affairs of a State ceased as soon as the risk of non-assistance emerged.

103. It was hard, in fact, to distinguish on the ground between internally displaced persons and refugees: both required relief and assistance for their well-being and very survival, although they also required protection from the serious human rights violations to which they were frequently exposed. That dimension was a major unresolved issue which should be a source of deep concern to the international community.

104. Despite the praiseworthy efforts made by some Governments, organizations and individuals to deal with the problem, there was currently no focal point to provide information on the overall numbers, living conditions or the prospects for reintegration of internally displaced persons. Her organization suggested therefore that the Commission on Human Rights should request the Secretary-General to make a special study of internally displaced persons, to be submitted to the Commission for consideration, if possible, at its forty-eighth session.

105. Mr. SEZAKI (Japan) said that, before commenting on the human rights situation in countries of particular concern to the Commission, he wished to refer to certain general guidelines and principles from which that concern emanated and with whose help more effective, fair and balanced solutions could be reached. First, it should be recalled that the principles of liberty and democracy and of respect for human rights were increasingly transcending the old borders of nation States, making the observance or non-observance of human rights in a particular country a matter of legitimate international concern.

106. Secondly, his delegation deprecated the tendency to subsume certain secondary concepts, particularly those relating to economic rights, under the general concept of human rights. Freedoms of thought, conscience, religion, opinion and speech should be given higher priority than other human rights, which were difficult to safeguard unless those more significant freedoms were ensured.

107. Thirdly, with reference to the point often made by developing countries that the Commission concentrated excessively on human rights problems in such countries while ignoring the problems in developed ones, the fact was that

human rights violations often took place in developing countries. Needless to say, however, the Commission should, take up human rights problems in any part of the world and in any country, developing or developed, wherever persistent violations took place.

108. Fourthly, the theory of a linkage between government policy on official development assistance and the human rights situation in recipient countries was gaining ground in his country. As a nation which regarded freedom and democracy as goals towards which all nations should strive, Japan subscribed to international support for worldwide democratization and could not, therefore, remain insensitive to the human rights situation in adopting its co-operation policies.

109. With regard to the situation in occupied Kuwait, he said that his delegation was deeply concerned at the human rights violations committed by the Iraqi authorities there and called upon Iraq to cease its barbaric acts and comply with the internationally recognized principles of humanitarian law. There had also been reports of human rights violations in Iraq itself, and accurate information on the situation there was urgently needed. It was most regrettable, therefore, that the Commission's discussions on human rights in Iraq had in the past been cut off by a no-action motion several times in succession, while Iraq's attitude of rejecting all co-operation with the Commission was wholly unacceptable.

110. As for Myanmar, it was deplorable that, nine months after the free and fair elections held in that country in May 1990, the transfer of power to the civilian winners in the elections had not yet been effected. Furthermore, various human rights violations, including illegal detention and torture, were allegedly still being practised. His delegation thus repeated its appeal to the Government of Myanmar to take prompt steps towards an early transfer of power and, in particular, to submit a clear timetable for the future political process.

111. The reports of extrajudicial executions in Sri Lanka, and of disappearances of Sri Lankan citizens were most distressing. Despite the difficult political situation in the country, some commendable steps had undoubtedly been taken; his delegation welcomed, in particular, the establishment of a special task force to look into issues concerning the protection of human rights, and appreciated the agreement reached with the International Committee of the Red Cross whereby ICRC representatives were authorized to visit prisons and other detention centres in order to observe the conditions there. His delegation was also aware of the ongoing dialogue between the special task force and the Working Group on Enforced or Involuntary Disappearances. However, it appealed to the Government of Sri Lanka to make strenuous efforts to restore justice and social stability and to comply with the International Covenant on Civil and Political Rights, to which it was a party.

112. His delegation appreciated the fact that the Government of the Islamic Republic of Iran had shown co-operation with the Commission by inviting its Special Representative, Mr. Galindo Pohl, on two occasions. It was, however, concerned over the numerous human rights violations referred to in the Special Representative's report (E/CN.4/1991/35), which gave rise to the conclusion that it was necessary to continue to monitor the human rights situation in Iran.

113. No delegation could remain indifferent to the human rights situation in China. However, the worst appeared to be over, and there were some encouraging signs that the situation was improving. His delegation hoped that the Government of China would continue to make further efforts in that regard.

114. Despite the completion of the withdrawal of foreign troops in accordance with the Geneva Agreement, armed conflict continued in Afghanistan, and reports of continued violations of human rights, such as detention for political reasons, torture and mandatory juvenile conscription, were matters of grave concern. His delegation appealed once again to both the Afghan authorities and the opposition movements to consider and respect the recommendations of the Special Rapporteur, Mr. Ermacora (E/CN.4/1991/31) and, in so doing, to increase respect for human rights throughout the nation. Japan sincerely hoped that peace would soon be restored in Afghanistan and would lead to an improvement in the human rights situation.

115. It was regrettable that the good offices of the Secretary-General had not yet brought the human rights problem in Cyprus to a satisfactory solution. His delegation once again assured the Secretary-General of its support in his efforts and urged him to do his utmost to achieve a negotiated settlement.

116. As to the human rights situation in Cuba, while it was encouraging that the Government of Cuba continued to make efforts towards the restoration and improvement of human rights, violations such as arbitrary arrests continued, however, to be reported. His delegation thus appealed to the Cuban Government to comply with international human rights standards and to continue to co-operate with the Commission.

117. While his delegation was concerned about the sporadic recurrence of military conflict in El Salvador, it welcomed the reopening of a dialogue between the Government and the Frente Farabundo Martí para la Liberación Nacional (FMLN). It appealed to all parties to persevere in their efforts to end a conflict which jeopardized human rights and fundamental freedoms throughout Central America.

118. According to the report of the independent Expert on the situation of human rights in Guatemala, (E/CN.4/1991/5 and Add.1), disappearances and murders had taken place at a frightening rate during 1990, with serious human rights violations being allegedly committed by members of the armed forces. While regretting that the previous Government had done little in the area of human rights, his delegation shared the view expressed in the report that the new Government was in a much better position to embark on reforms of a fundamental character and should have the courage to do so, no matter how deeply such steps might touch upon the vested interests of people hitherto enjoying illegitimate benefits.

119. Lastly, referring to the situation in the Baltic Republics, he said that his delegation could not in any way approve of the use of military force and strongly hoped that the problems of those republics would be settled in a democratic and peaceful manner. It had heard with approval the statement by the representative of the USSR to the effect that an investigation of the events was under way and that those responsible would be duly punished, and hoped that the results of the investigation would soon be published. It also welcomed the statement that had been made on the subject by the Chairman on behalf of the Commission.

120. In conclusion, he wished to emphasize that the Commission was not a court in which sentence could be pronounced on specific practices in individual countries or a forum where such practices could be unilaterally deplored or condemned. Accordingly, when considering its agenda item 12, the Commission should adopt more effective and realistic approaches to the task of assessing the real human rights situation in each country.

121. Mr. SCHERK (Austria) said that United Nations monitoring activities in the field of human rights deserved clear and unequivocal support both morally and financially. In particular, all special rapporteurs and special representatives as well as members of the Sub-Commission and of working groups established by the Commission should be considered as "experts on missions" within the context of article VI, section 22, of the Convention on the Privileges and Immunities of the United Nations.

122. There was some justice in the argument advanced by certain delegations that the Commission tended to concentrate on a limited number of country situations only to the exclusion of others of comparable gravity, but the fact remained that scrutiny of any of the situations currently before the Commission could not be considered unjustified; in each of the cases in question, the special rapporteur, special representative or independent expert recommended a continuation of his mandate in view of the persistence of serious human rights problems in the country concerned. As the recent case of Chile demonstrated, the best way to bring special scrutiny to an end was to co-operate closely with the Commission and to comply with the advice and recommendations of its special representative.

123. The armed conflict initiated by Iraq's flagrant violation of the Charter of the United Nations was undoubtedly the most pressing problem currently facing the Commission, not only in view of the suffering and destruction it entailed but also, and more specifically, because of the gross violations of human rights connected with it. His delegation was deeply concerned about the numerous reports of serious human rights violations committed by Iraqi occupation forces in Kuwait and it also wished to stress the duty of all parties to an armed conflict to respect their obligations under international humanitarian law, particularly the Geneva Conventions of 1949, unconditionally and without reciprocity.

124. Accordingly, all States engaged in military action had to ensure that the civilian population was not the object of attack. It was also completely unlawful to use the civilian population in order to shield military objects from attack. Rocket attacks on the civilian population of a State not even participating in the armed conflict warranted particular condemnation.

125. His delegation also called upon all States engaged in the Gulf conflict to ensure the adequate humane treatment and protection of all prisoners of war. The use of prisoners of war as human shields was a flagrant violation of the most basic human rights and utterly unacceptable. Moreover, in view of disturbing reports received concerning serious human rights abuses in Iraq itself, the Commission should consider ways and means of monitoring the human rights situation there, for the benefit of the Iraqi people.

126. His delegation had already, under other agenda items, expressed its concern about persistent human rights problems in the Arab territories occupied by Israel and the situation in South Africa. Referring to the human

rights situation in the Islamic Republic of Iran, he said that, while his delegation welcomed the positive steps taken by the Iranian Government, it remained concerned about the human rights violations reported by the Special Representative and fully supported the recommendations set out in paragraph 494 of his report (E/CN.4/1991/35).

127. The report on the situation of human rights in Afghanistan prepared by the Special Rapporteur, Mr. Ermacora (E/CN.4/1991/31), made it clear that the key to ensuring respect for human rights in that country was a political solution of the armed conflict which had ravaged Afghanistan for almost 12 years. Indiscriminate warfare and the use of weapons of mass destruction against the civilian population by both sides to the conflict, as well as summary executions, mistreatment of political prisoners and the poor state of the judiciary were causes for serious and undiminished concern.

128. His delegation was also concerned about continued serious human rights abuses in Myanmar which, in its view, would warrant consideration by the Commission in public session. It appealed to the authorities of Myanmar to respect the will of the people as expressed in the election of May 1990.

129. While deeply concerned at the continuing bloodshed and precarious human rights situation in Cambodia, it welcomed the progress achieved within the framework of the United Nations towards a settlement to the Cambodian conflict and stressed that any settlement must include the protection of human rights. There was also widespread concern in his country about the large number of recent indictments of, and, in some cases, harsh sentences passed on participants in the democracy movement in China and the reports of continuing tensions and serious human rights violations in Tibet.

130. The report of the Special Representative on the human rights situation in El Salvador (E/CN.4/1991/34) was hardly encouraging. Politically motivated killings, which had become less frequent following the signature of the San José Agreement in July 1990, appeared to be once more on the increase, and politically motivated forced disappearances as well as torture and terrorism continued to occur at a disturbing rate. The Government's measures against humanitarian, trade union and peasant organizations, as reported by the Special Representative, also gave cause for serious concern.

131. With regard to the human rights situation in Guatemala, his delegation shared the grave concern felt by the independent Expert and supported the view expressed in his report (E/CN.4/1991/5) that one of the new Government's primary objectives must be to affirm its authority over the armed forces and to enlist their co-operation with a view to putting an end to the permanent threat of violence and death hanging over the country.

132. It was to be hoped that, in Haiti, the recent inauguration of a democratically elected President would bring about a fundamental change in the human rights situation reported by the independent Expert (E/CN.4/1991/33 and Add.1) and a progressive evolution towards the rule of law.

133. Reports on human rights practices in Cuba also presented a bleak picture, in particular with respect to the freedom of opinion and of association. His delegation was disturbed about reports of reprisals against human rights activists, and would welcome responses by the Cuban Government to issues raised by the Commission's working group which had visited the country in 1988.

134. Turning to the human rights situation in Europe, he said that his Government was still following with deep concern the developments in Kosovo after the measures adopted by the Socialist Republic of Serbia in 1990. In its view, historical arguments should never be allowed to stand in the way of the equal enjoyment of human rights and fundamental freedoms by all groups of the population, irrespective of their ethnic, cultural or religious background.

135. With regard to the human rights situation in Romania, he noted with satisfaction that the progress noted by the Special Rapporteur in his first report (E/CN.4/1990/28), shortly after the downfall of the former régime, had continued since and that, when addressing the Commission at its current session, the Minister for Foreign Affairs of Romania had confirmed his Government's intention to establish a truly democratic system based on the rule of law and respect for the human rights and fundamental freedoms of all, including guarantees for the country's ethnic minorities. His delegation welcomed, in particular, Romania's professed willingness to co-operate closely with the Special Rapporteur in accomplishing that task.

136. His delegation had also noted with great interest the announcement by the President of Albania that his country was to engage in a process of democratization and, despite the dismaying recent reports of widespread unrest and the use of force, it hoped that Albania would continue on the path towards the rule of law and the guaranteeing of human rights.

137. The tragic events in the Baltic Republics of the Soviet Union in January 1991, in particular the use of military force against the civilian population of Lithuania and Latvia which had caused much loss of life, had been followed with great concern in Austria. In his Government's view, pressure, coercion, force and threats were not appropriate means of dealing with the Baltic peoples' aspirations. It was to be hoped that solutions to the difficult situation in the region would instead be sought through a dialogue between the republics' elected representatives and the Soviet authorities, and that the process of democratization in the area, which had looked so promising, would not be discontinued. In that context, his delegation noted with satisfaction the statement made by President Gorbachev on 22 January 1991 and the statement made by the Soviet representative to the current meeting.

138. The human rights situation in Cyprus had failed to show progress since the previous year and many problems relating, in particular, to refugees and missing persons, still remained unsolved. His delegation therefore reiterated its support for Commission resolution 1987/50 and called on both communities in Cyprus to engage in confidence-building measures.

139. In conclusion, noting with regret that most of the country situations appearing under item 12 had been before the Commission for several years with only limited progress having been made, he suggested that the Sub-Commission should be entrusted with preparing a study on the root causes of the human rights problems involved.

140. Mr. ROMARE (Sweden) said that his delegation deplored the stigma attaching to agenda item 12 in the minds of many delegations. The view that to become the object of a resolution under the item was equivalent to being

placed on a blacklist was unfounded. Item 12 did, of course, cover some cases of wilful, systematic and gross violation of human rights and fundamental freedoms by Governments. In other cases, however, Governments might be doing their best to improve difficult human rights situations but failing in their efforts because of serious obstacles.

141. Misconceptions of the item's nature had, however, caused even well-intentioned Governments to shun it and, rather, to seek remedies under the advisory services item. As a result, the Commission was sometimes prevented from undertaking the thorough assessment of a situation that could only be made under item 12. The advisory services item was not intended for such assessment, although assistance and technical co-operation could serve as an appropriate and useful supplement to consideration under item 12.

142. His delegation hoped that item 12 would eventually come to be seen in a more objective light, so that situations might receive more extensive and efficient consideration in co-operation with the Governments concerned. Such a development might, in fact, be already under way, some Governments having apparently realized that they had nothing to lose and even something to gain from adopting an open stance on their human rights problems.

143. In that connection, he welcomed the constructive attitude adopted by the Soviet delegation in informing the Commission extensively about the recent tragic events in the Baltic Republics and the measures being taken to investigate those events and to rectify the situation. His delegation also welcomed the co-operative attitude of the Romanian Government with regard to the continuing human rights problems in that country, including its willingness to have the mandate of the Special Rapporteur extended for a further year and also to make use of the Voluntary Fund for Advisory Services. That was how his delegation would hope to see item 12 interpreted and utilized in more cases in the future.

144. The position was different in the case of Guatemala, whose new Government, while expressing its determination to bring about increased respect for human rights in the country and its sincere will to co-operate with the Commission, had unfortunately refused to have its human rights situation considered under item 12. His delegation, which was seriously concerned at the picture of the situation in Guatemala emerging from the report by the independent Expert (E/CN.4/1991/5), deprecated the Guatemalan Government's decision.

145. The report on Afghanistan (E/CN.4/1991/31) made it clear that the situation in that country showed little or no improvement and the Special Rapporteur should be invited to continue to review the situation.

146. In EL Salvador, the situation remained unacceptable despite the decrease in the number of serious human rights violations, especially following the San José Agreement in July 1990. The unsolved murder of six Jesuit priests and their two household employees, in particular, was a source of continuing serious concern. It was evident from the Special Representative's report (E/CN.4/1991/34) that the situation called for an extension of his mandate.

147. The recent elections in Haiti gave grounds for the hope that respect for human rights in that country might improve. The situation was, however, still precarious and the Commission should continue to follow developments closely.

148. His Government remained deeply concerned about the human rights situation in the Islamic Republic of Iran. In view of evidence that serious violations were continuing, and particularly of numerous allegations of summary and arbitrary executions, it was of paramount importance that the mandate of the Special Representative should be prolonged and that the Iranian authorities should continue to co-operate with him.

149. The many unresolved armed conflicts in Africa were helping to erode respect for human rights. However, several ongoing peace processes offered some hope of an improvement in the general human rights situation, which would also undoubtedly benefit from the advances towards democratization being made in many African countries.

150. In the Middle East, unresolved political conflicts, lack of trust between Governments and parties, and the absence of democracy in most of the countries of the area were creating instability, oppression and violence. Iraq's record of human rights abuses was well known, and alarming reports of torture, summary executions and other atrocities were being received from occupied Kuwait. The human rights situation in Syria also merited more attention on the part of the Commission. The situation in the Palestinian territories occupied by Israel had shown no improvement over the years.

151. The human rights situation in China and the areas under its control remained a cause for serious concern. His delegation had noted with sorrow and disappointment the sentences recently pronounced on the leaders of the democracy movement, and was particularly concerned about the frequent use of the death penalty. Since economic and social progress could not be sustained in the absence of respect for civil and political rights, his Government had begun and wished to continue a dialogue with the Chinese Government on those matters.

152. The human rights situation in Myanmar continued to be deplorable and merited increased public scrutiny by the Commission. The security situation in many parts of Sri Lanka continued to give rise to widespread violence against civilians, frequent disappearances and other human rights violations. All efforts should be made to restore full respect for human rights and to create an environment conducive to peace. His delegation noted that the Government of Sri Lanka had recently established a commission on human rights, and would closely follow its work. Sweden remained concerned about the lack of respect for human rights in Cuba, and expected the Cuban Government to take steps to remedy the situation.

153. In conclusion, he once again expressed the hope that the Commission would make more use of its potential for constructive co-operation with individual Governments with a view to solving their human rights problems.

154. Mr. DAYAL (India), referring specifically to the human rights situation in Cyprus, said that little or no progress had been achieved since the question had been placed on the Commission's agenda in 1976. His Government supported the unity, independence, territorial integrity and non-aligned status of the Republic of Cyprus and stood firmly for the restoration and

safeguarding of human rights of all Cypriots. The non-aligned countries had repeatedly reaffirmed their solidarity with the people and Government of Cyprus, and had extended full support to the Secretary-General in his mission of good offices.

155. Referring to the report of the Secretary-General submitted pursuant to Commission decision 1990/104 (E/CN.4/1991/27), he expressed the hope that discussions between United Nations officials and leaders of the two Cypriot communities would be brought to a successful conclusion as early as possible in accordance with the relevant Security Council and General Assembly resolutions. His Government supported the continuation of the Secretary-General's mission of good offices under the auspices of the Security Council.

156. Mr. BRUNI CELLI (Venezuela) said that international protection of human rights had become a crucial aspect of international relations in recent decades and that the instruments designed to ensure that protection required support, recognition, stimulation, modernization and resources.

157. The international community's struggle for the protection of human rights was closely connected with the struggle to achieve democracy and the defence of its institutions. Although violations occurred under democratic Governments, human rights were always better protected under democracies. Democracy and peace therefore provided the most favourable environment for the respect, defence and promotion of human rights. Recent years had seen significant progress in human rights, but that did not mean that there was no longer any cause for concern. The reports of the special rapporteurs were there to remind everyone that serious human rights problems persisted in many countries.

158. Peace was more than the mere absence of war. Genuine peace was determined not only by international agreements between the major Powers but by respect and solidarity within a single country and in the international sphere. Broad and lasting peace also required abolition of the social and economic causes of national and international conflicts through the achievement of liberty and social justice and the strengthening of the institutions for the peaceful solution of conflicts.

159. Recourse to violence always led to the violation of human rights and the blocking of the democratic process. The suffering of the Central American peoples through armed conflicts in recent years was a painful testimony to the high costs of internal wars: thousands of dead and wounded; millions of displaced persons; economies destroyed, shortages, hunger and despair. The same could be said of many other peoples of Latin America, Asia and Africa.

160. In the case of Latin America, despite the progress achieved in democracy, human rights problems remained. In addition to the economic crisis, external debt and the drug traffic, which were a threat to peace and to human rights, there were manifestations of terrorism in various forms. It was for Governments to maintain public order and the physical security of their inhabitants, but democratic régimes were not permitted to substitute one form of violence for another. Summary executions, enforced disappearances, torture and unlimited detention without due process created a spiral of violence which would ultimately destroy democracy itself.

161. Turning to the reports on Haiti and El Salvador, he said that Venezuela had a history of close co-operation and friendship with Haiti and had followed recent events in that country with special interest. Although the main obstacles to a real improvement in human rights persisted, the coming to power of a democratic constitutional Government in that country gave cause for hope. He had listened with interest to the statement by the representative of Haiti on the new Government's willingness to ratify international instruments and overcome remaining difficulties such as violence in the rural zones, the lack of effectiveness of the judicial system and the confusion of competence among the various State security bodies. United Nations co-operation in that area would have a positive impact, and the advisory services in the field of human rights should be intensified. The Commission should continue to study the human rights situation in that country in the framework of the advisory services.

162. With regard to El Salvador, the dialogue and negotiation process begun between the Government and the FMLN, with the active participation of the Secretary-General of the United Nations, to end the armed conflict, strengthen the democratic process and guarantee respect for human rights, deserved the support of the international community. Although a cease-fire had not yet been reached, concrete results had been attained such as the agreement on the schedule for the negotiating process and the signing of the Agreement on Human Rights. Nevertheless, the talks were not taking place as rapidly as they should, and the people of El Salvador continued to suffer as a result of the continuation of the war.

163. Regarding the human rights situation in other regions of the world, his delegation endorsed the concerns expressed by the Special Rapporteur on the question of Afghanistan and supported the steps taken by the Secretary-General to find a just and lasting solution to the situation in Cyprus. His Government hoped that the United Nations system would continue to strengthen its institutions, standards and mechanisms for the protection of human rights.

164. Mr. KRALIK (Czech and Slovak Federal Republic) said that the Commission's purpose in drawing attention to human rights violations was not to accuse or denounce States but to eliminate the gross abuse of power which grew out of two different understandings of morality: the Hobbesian view of the belligerent man, who made a place for himself in nature by mere physical strength, and the eternal longing for absolute freedom and independence, of unlimited development of the individual, advocated by Locke. Even in Locke's concept, however, the State had no hope of survival if it was led into anarchy. Jean-Jacques Rousseau had resolved that dilemma in his Social Contract, which linked the people's freedom to their own responsibility.

165. Many humanists and democrats had based themselves on Rousseau to try to find a new system in which peace and justice would prevail. In particular, the Canadian Marcel Mouss believed that the spirit of peace was above all a spirit of federation, in which tribal feuds were forgotten and nationalistic prejudices suppressed. In keeping with that spirit, his Government had not stopped with a mere verbal condemnation of the occupation of Kuwait by Iraq but had sent a unit of the armed forces to take an active role in restoring the independence, territorial integrity and sovereignty of that Member State of the United Nations.

166. With the increasing interdependence of the world's society, the ethical categories of morality and conscience should increasingly make themselves felt within even the most dissimilar legal systems. With the breakdown of a bipolar world, the idea of a universality embracing all of humankind should fill the moral and social space that was coming into being with universally recognized human rights. Everything that had been ethically outgrown should be removed from current jurisprudence, while the original intentions of the framers of the Charter of the United Nations and Universal Declaration of Human Rights should be revived.

167. Humankind was confronting problems on a global scale that had been hitherto unknown. The Minister for Foreign Affairs of Uruguay had spoken of a new category of ecological refugees, which was one of the results of the growing globalization of problems that had a clear-cut social denominator. Unfortunately, the penal codes of many States still did not contain laws against crimes of that sort, and the argument was often encountered that criticism of violations of human rights was interference in the internal affairs of States.

168. Turning to the legislative changes in his country since the last meeting of the Commission, he said that a democratic revolution in the Czech and Slovak Federal Republic had created a new social and moral space after the collapse of an outworn dogma. That new space was being filled with generally-binding moral norms.

169. At the beginning of January 1991, the Federal Assembly had adopted a constitutional law endorsing a document of basic rights and freedoms. For the first time in the legal code of the Czech and Slovak Federal Republic, there was mention of the important principle of the priority of international commitments over domestic laws. His country did not shrink from the critical eyes of the international community as it built a democratic, legal State.

170. On 21 February, the Minister for Foreign Affairs had signed the European Convention on Human Rights in the name of the Czech and Slovak Federal Republic. A few days before, the President of the country had signed an agreement accepting the Optional Protocol to the International Covenant on Civil and Political Rights and had made the required declaration under article 41 of the Covenant. At the same time the Parliament had approved the cancellation of objections to the obligatory jurisdiction of the International Court of Justice in 19 international multilateral agreements. In the domestic sphere, injustices committed by the former régime were gradually being corrected by means of rehabilitation and financial and moral compensation.

171. His Government was devoting great attention to ensuring the protection of minorities and noted with satisfaction that the Charter of Paris for a New Europe had brought outstanding progress in international codification of the ethnic, cultural, language and religious identity of national minorities and the rights of individuals belonging to those minorities to express themselves and to maintain and develop their identity.

172. Contrary to the beliefs of some political scientists, the collapse of a bipolar world had not instituted an era in which ideology would no longer nourish conflicts. The Commission had heard much information about the terrible crimes committed by the Iraqi occupation army against an unarmed civilian population. It was also a sad reality that human rights were being

trampled underfoot in many other parts of the world. Torture, summary executions, disappearances, illegal detention and imprisonment were a daily occurrence. The Commission should make a serious attempt to find procedures which would impose systematic moral pressure on the Governments that allowed such gross violations of human rights.

173. The question of a procedure for the protection of persons who had become "prisoners of conscience" simply because they had attempted to exercise their rights under article 19 of the Universal Declaration should be put on the Commission's agenda. In many countries, such as Cuba, intolerance towards political opposition was still being witnessed. In a recent statement, his Government had condemned the use of military force against legal organs of State power and against civilian populations in the Baltic countries. Consequently, his delegation noted with satisfaction the willingness of the USSR to co-operate as just expressed by that country's representative.

174. His Government supported a just solution of the Cyprus question which would result in an end to the enforced division of the island.

175. In the 23 years since the adoption of the Tehran Declaration, questions of human rights and basic freedoms had become an aspect of international relations that could not be ignored. His Government therefore welcomed the decision of the General Assembly of the United Nations, at its forty-fifth session, to convene a World Conference on Human Rights in 1993. In conversations with the Under-Secretary-General of the United Nations in October and November 1990, President Havel had expressed interest in holding that Conference at Prague. The technical questions concerned with the invitation were being actively discussed by his Government, and in the case of a positive decision, it would submit its candidature to act as host for the Conference to the Preparatory Committee at its Geneva meeting in September 1991.

176. Mr. DAHAB (Observer for Sudan) said that the forty-seventh session of the Commission was taking place at a time when Israeli occupation was still weighing on southern Lebanon. Detention of civilians, destruction of houses, expropriation of property and expulsion were some of the brutal practices of the Israeli authorities in southern Lebanon, in clear violation of the Universal Declaration of Human Rights and the Fourth Geneva Convention. The continued Israeli bombing of villages and cities in that country, was responsible for the deaths of hundreds of women, children and old people.

177. His delegation welcomed the Commission's continued study of the question of human rights in Lebanon and called upon it to continue its pressure on the Israeli authorities to allow the International Committee of the Red Cross and other humanitarian organizations to conduct their work in southern Lebanon and to investigate the situation of Arab detainees in the hands of the Israeli authorities.

178. The continued Israeli occupation of the Syrian Golan, southern Lebanon and Palestine was in defiance of the international community, which could have no credibility unless the Arab peoples in Palestine were able to determine their own fate. As the intifada entered its fourth year and the Arab peoples in the Syrian Golan and southern Lebanon continued their rejection of the

Israeli identify and insistence on their Arab identity, the international community was called on to end the occupation by legitimate means and without selectiveness.

179. Regarding the tragic situation in the Persian Gulf, he said the need to respect international humanitarian principles was once again affirmed and that the Geneva Conventions must be applied to the people of Kuwait and Iraq.

180. Mrs. FRITSCHE (Observer for Liechtenstein) said that the Principality of Liechtenstein, which had become the one hundred and sixtieth Member State of the United Nations on 18th September 1990, felt very strongly about the provision in Article 1 of the Charter of the United Nations concerning the achievement of international co-operation in promoting and encouraging respect for human rights and for fundamental freedoms, and would endeavour to contribute to its implementation.

181. Her Government deeply regretted the recent deployment of force in Lithuania and Latvia, in clear violation of the commitments undertaken by the Soviet Union in the Conference on Security and Co-operation in Europe. It hoped sincerely that a peaceful solution would be found to the conflict between the Baltic States and the Soviet authorities.

182. Concerning the need to eradicate apartheid, her delegation welcomed the announcement by the President of South Africa that the Land Act, the Group Areas Act and the Development of Black Communities Act would soon be repealed. She hoped that the positive measures announced would be translated into action without delay. The release of political prisoners, especially Mr. Nelson Mandela, and the historic transition of Namibia to independence, were significant steps in reducing tensions in southern Africa and a cause for satisfaction. Much still remained to be done, however, and all parties should intensify their dialogue with a view to introducing just and fair solutions.

183. Her Government condemned the Iraqi invasion of Kuwait and the violations of human rights perpetrated against the people of occupied Kuwait. Iraq's aggression had been a painful reminder for small States like her own of their need for the United Nations to safeguard their interests. The United Nations' stand on the issue gave reason for hope to all the peoples of the world, whether big or small. Current developments suggested that an end to the suffering of the peoples in the Gulf region was in sight.

184. Her delegation welcomed the convening of a World Conference on Human Rights in 1993 and thought it would be an appropriate occasion for reviewing the human rights situation in all parts of the world and identifying obstacles to their progress. She reiterated her Government's readiness to make every possible contribution to the promotion and strengthening of respect for human rights and fundamental freedoms.

The meeting rose at 11.55 p.m.